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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/508,334	11/30/2004	Geoffrey Kenneth Rochester	550-596	7632

23117 7590 11/23/2005

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EXAMINER

MOHANDESI, IRAJ A

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/508,334

Applicant(s)

ROCHESTER ET AL.

Examiner

Iraj A. Mohandesi

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/09/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claim 15 has been canceled.

Response to Arguments

2. Applicant's arguments filed 09/09/2005 have been fully considered but they are not persuasive.
3. Applicant's argues, that "at no point does Hassard181 teach that a gaseous transmission fluid is "to become entrained in the fluid flow" of water".
4. Hassard181 clearly teaches " In others the suction from the conduit may be used to suck air through the fluid drivable engine " (see column 2 lines 15-20).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-7 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Hassard US patent 6,568,181.

Regarding claim 1, Hassard'181 disclosing an apparatus for extracting power from a fluid flow comprising: a fluid drivable engine (40, column 4, line 59, Fig.3); a conduit (30, column 4, line 5, Fig.3) disposed to enable fluid communication between a portion of the fluid flow (see column 4, line 11, Fig.3), the fluid drivable engine and a transmission

fluid, the fluid in the fluid flow and the transmission fluid being different fluids the transmission fluid being a gas (air, see column 2, lines 15-21) and the fluid flow being a liquid (water, see column 3, line 30) and the portion of the fluid flow being at a lower pressure than the transmission fluid (see column 7 lines 45-55) by virtue of its flow rate, thus causing the transmission fluid to be drawn through the conduit exiting the conduit via a plurality of entrainment outlets (end portion of 20s see Fig. 4) to become entrained in the fluid flow, the fluid drivable engine (40) being arranged such that the flow of the transmission fluid along the conduit (30) acts to drive the fluid drivable engine, and the size of each of the plurality of entrainment outlets being inherently that of a practical bubble size.

Regarding claims 2-7 and 12-14, Hassard'181 disclosing an apparatus for extracting power from a fluid flow comprising at least one fluid directing formation (10) formed to define a channel (see Fig. 3 and 9), and the fluid flow comprises a flow along a conduit (30) between two positions in a fluid stream, a conduit inlet position being at a higher fluid pressure than a conduit outlet position (Fig. 3 and 9) and a flow of water (see column 3, line 30), wherein the transmission fluid comprises air (see column 2, line 17) and the fluid drivable engine comprises a turbine (40), wherein the conduit is linked to manifold from which a plurality of smaller conduits pass (see Fig. 4 small passes of 30 join to a manifold), each of said smaller conduits comprising an entrainment outlet, the conduit comprising fluid directing formation (see Fig 3), the fluid direction formations being arranged so as to cause downward flowing fluid to spin about a longitudinal axis (see Fig. 3).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hassard US patent 6,568,181 and in view of Miller US patent 5,071,548.

Hassard'181 teaches all limitation of claimed invention except for a heat exchanger is arranged to cool the transmission fluid to condense.

Miller'548 discloses a fluid purifying apparatus having a heat exchanger (41) is arranged to cool the transmission fluid (column 12, line 11) and to condense (see column 12 line 32).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine Hassard'181 apparatus with a for a heat exchanger is arranged to cool the transmission fluid to condense as taught by Miller'548 for the purpose of arranging the transmission fluid to communicate with external plant.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Iraj A. Mohandesi whose telephone number is 571-272-2028. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

I Mohandesi November 15, 2005


DARREN SCHUBERG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800